

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	Roy & Delight C. Duncan)	
	District G2, Block 19F, Parcel A2)	
	Residential Property)	Shelby County
	Tax year 2005)	

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization ("county board") has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$95,100	\$104,900	\$200,000	\$50,000

On December 6, 2005, the property owners filed an appeal with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a hearing of this matter on April 6, 2006 in Memphis. The appellants, Roy and Delight Duncan, represented themselves at the hearing. Staff appraiser Ron Nesbit appeared on behalf of the Shelby County Assessor of Property.

Findings of Fact and Conclusions of Law

This appeal concerns a one-story house located at 7271 Neshoba in a Germantown subdivision. Built by Mr. Duncan himself in 1967 with salvage materials, this brick/frame dwelling contains three bedrooms, two baths, and an attached garage. Transmission, utility, and sewer & water line easements cover approximately one-third of the 3.88-acre lot. There are two concrete flood drains and above-ground manholes on the premises.

In 2005, a year of reappraisal in Shelby County, the valuation of the subject property homes from \$138,500 to \$200,000. After unsuccessfully contesting the new appraisal before the county board, the property owners – senior citizens living on a fixed income – sought relief from the State Board.

According to Mr. and Mrs. Duncan's letter of March 27, 2006, "there are no other homes or properties comparable to ours in the area." However, in their opinion, the subject property was only worth about \$150,000. The appellants distinguished their house from more elaborate ones in the vicinity, and emphasized the adverse effect of the easements and obstructions.

Of the five residential properties described in his comparative sales analysis, the Assessor's representative attributed most significance to the sale of 2711 Scarlet Road in January, 2002 for \$225,000. Though almost identical to the subject house in age and size, that property included considerably less acreage.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values....”

Since the taxpayers seek to change the present valuation of the subject property, they have the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

The administrative judge certainly recognizes the financial hardship which may be caused by higher property taxes – particularly on retired persons who have worked hard for many years to shelter and raise a family. Unfortunately, having thus far opted against taxation of earned income (salaries and wages), this state offers relatively little in the way of property tax relief for needy elderly and/or disabled homeowners.

That said, in the opinion of the administrative judge, the record in this case does not warrant a reduction of the value determined by the county board. To be sure, the taxpayers did identify several factors which would detract from the value of their 38-year-old house and the underlying land. But they introduced no market data or other appraisal-related evidence from which one could legitimately infer that the current appraisal fails to account for those negative factors. Without doubting the sincerity of the appellants’ own opinion of value, the administrative judge cannot justifiably accord greater weight to that opinion than to Mr. Nesbit’s largely unrefuted market analysis.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$95,100	\$104,900	\$200,000	\$50,000

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is

requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 15th day of May, 2006.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Roy & Delight C. Duncan
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office
Rita Clark, Assessor of Property

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